

There came on for consideration at a duly constituted meeting of the Mayor and Members of the City Council of the City of Gulfport, Mississippi, held on the 19th day of November, 2019, the following Ordinance:

ORDINANCE NO. 3022

ORDINANCE TO CREATE A COMPLIANT HEARING PROCESS TO IMPLEMENT THE LOCAL GOVERNMENT DEBT COLLECTION SETOFF ACT, H.B. NO. 991, AND FOR RELATED PURPOSES

WHEREAS, during the 2019 session of the Mississippi legislature, it passed and the Governor signed House Bill Number 991, the Local Government Debt Collection Setoff Act ("Setoff Act"); and

WHEREAS, the purpose of the Setoff Act is to allow local governments, which includes municipalities, throughout Mississippi to collect debts owed them through the assistance of the Mississippi Department of Revenue; and

WHEREAS, the Setoff Act authorizes the Mississippi Department of Revenue to set off the debt owed the municipality against the debtor's state income tax refund and remit the state refund or a portion thereof to the municipality, after payment of the Collection Assistance Fee; and

WHEREAS, one of the processes required by the Setoff Act is a hearing; and

WHEREAS, the City of Gulfport desires to use the Setoff Act as one means to collect outstanding debts owed the City for various reasons, including, but not limited to, fines imposed by its municipal court and customer utility bills; and

WHEREAS, the intent of the City of Gulfport in adopting this Ordinance is to comply with the requirement of the Setoff Act that debtors be provided with the opportunity for a hearing about the City's intention to recover a debt owed the City by setting off the debtor's state income tax refund against that debt.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULFPORT, MISSISSIPPI, AS FOLLOWS:

Section 1. Debtor's Administrative Hearing on City's Intent to Collect a Debt Through the Process of the Local Government Debt Collection Setoff Act.

(a) This Ordinance shall be known as the "Setoff Act Debtor's Administrative Hearing Ordinance."

(b) The purpose of this Ordinance is to establish and prescribe procedures for the hearing required for debtors under the Local Government Debt Collection Setoff Act, 2019 Session Laws, House Bill Number 991.

(c) Definitions.

(1) Debt, for the purposes of this Ordinance, means any single debt owed the City of at least \$50.00 or any combination of debts owed the City, which when added together totals at least \$50.00. The source of the debt owed the City may be, but is not limited to, a fine, a fee, a judgment, or a delinquent water, sewer, or sanitation bill. Debt shall not mean any fine that is the subject of a payment plan for a municipal court fine where payments are current. Debt shall not mean any water, sewer, or sanitation bill: 1) that is the subject of a payment plan, where the monthly payments due under the plan are current; or 2) that is the subject of a hearing or appeal under Section 11-68 of the Code of Ordinances.

(2) Debtor, for the purposes of this Ordinance, shall mean any person who the City alleges owes the City a Debt and from whom the City intends to collect such debt under the process provided by the Local Government Debt Collection Setoff Act.

(3) Collection Assistance Charge shall mean a charge of twenty-five percent (25%) of the debt of a Debtor that is added to, and becomes a part of, the Debt.

(4) City shall mean, for purposes of this Ordinance, any City department, employee, or contractor designated by the Mayor to perform the following actions required under this Ordinance: mailing the Notice of Intent, receiving a request for a Hearing, scheduling the Hearing, delivering notice of the Hearing, and delivering the written decision of the Hearing Officer.

(5) Hearing shall mean the hearing required under the Local Government Debt Collection Setoff Act to be held upon the request of the Debtor to determine the validity and the amount of the Debt owed the City of Gulfport.

(6) Hearing Officer shall mean an individual recommended by the Mayor and approved by the City Council for the limited purpose of conducting the Hearing.

(7) Notice of Intent shall mean written notice mailed by the City to the Debtor stating the following, at a minimum:

- a. The basis for the City's claim that the Debtor owes the City a Debt;
- b. The City intends to request that the Mississippi Department of Revenue take the Debtor's state income tax refund in an amount sufficient to satisfy the Debt;
- c. In addition to the Debt, the Debtor will be assessed a Collection Assistance Charge of twenty-five percent (25%);
- d. If the Debtor pays the City the full amount of the Debt within thirty (30) days, the Collection Assistance Charge will not be assessed;
- e. The Debtor has the right to make a written request to the City of Gulfport for a Hearing within thirty (30) days of the date of mailing of the Notice of Intent;
- f. If the Debtor wishes to contest the Debt, a written request for a Hearing must be addressed to the City to the attention of and to the address designated in the Notice of Intent;
- g. If the Debtor requests a Hearing, the Debtor may include with his hearing request any additional means by which they wish to be notified of the hearing date;
- h. If the Debtor requests a Hearing, they may be represented at the Hearing by an attorney or such other person as they may wish to have represent their interests (where represented at the Hearing by a person other than an attorney, the Debtor must designate that person in writing);
- i. If the Debtor requests a Hearing, they may present evidence on their behalf, including the testimony of witnesses; however, the Debtor may not dispute any civil or criminal issue that has been litigated in a court proceeding in which a judgment has been entered; and

j. If the Debtor fails to request a Hearing within thirty (30) days of the date of the Notice of Intent, the Debtor will be deemed to have waived their right to a Hearing and the Debt will be submitted to the Mississippi Department of Revenue to be set.

(d) The City shall mail a Notice of Intent to the Debtor at the Debtor's address last known to or discoverable by the City through reasonable investigation.

(e) The Hearing Officer is hereby empowered to conduct Hearings.

(f) Request for Hearing.

(1) A Debtor who disputes a Debt identified in a Notice of Intent must file a request for a Hearing with the City. The request shall contain the following: 1) the name, address, telephone number and electronic mail address of the Debtor; 2) any reasonable additional manner in which the Debtor wishes to be notified of the time, date, and place of the Hearing; 3) the amount of the Debt being disputed; and 4) the reason for the Debtor's dispute.

(2) This request for a Hearing must be filed within thirty (30) days of the date of mailing of the Notice of Intent. The request is considered to have been filed on the date it is delivered for mailing with postage prepaid and properly addressed to the City. Upon receipt of the request for a Hearing, the City shall schedule a Hearing with a Hearing Officer. The City shall set said Hearing to be heard no later than thirty (30) days after receipt of the Debtor's request for a Hearing, if practicable.

(3) The City shall mail to the address to which the Notice of Intent was mailed and also deliver by any reasonable means designated in the Debtor's request for a hearing, notice of the time, date, and place of the Hearing at least fourteen (14) days prior to the scheduled Hearing. The conduct of the Hearing will be in accordance with rules and procedures established by the Hearing Officer and shall be conducted informally. A representative of the City with knowledge of the Debt shall attend such hearing and present a response to the Debtor's request for a hearing. Any City employee with knowledge of the Debt may be called by the Hearing Officer to respond to the request for a Hearing. All expenses incurred in the hearing, including witness fees, mileage, reproduction of documents, or other costs, shall be borne by the party who incurred them. The Hearing Officer will receive and consider all evidence submitted during the hearing.

(4) If the Debt at issue in the Hearing is a water, sewer, or solid waste services bill, the City or the Debtor may submit as evidence the transcript or findings and recommendations resulting from a hearing conducted under Section 11-68 of the Gulfport Code of Ordinances and any Order of the City of Gulfport City Council.

(5) At the conclusion of the hearing, the Hearing Officer shall advise of their findings and recommendation regarding the Debtor's request for a Hearing. As soon as practicable thereafter, but no later than fourteen (14) days following the date of the Hearing, the Hearing Officer shall issue to the City their findings and recommendation. The City shall forthwith mail the findings and recommendation to the Debtor using the address to which the Notice of Intent was mailed and any means of notification designated in the Debtor's request for a hearing. The findings and recommendation of the Hearing Officer shall be made upon substantial and reliable evidence, and shall consist of findings of fact and the disposition of the dispute. If the Hearing Officer finds the Debtor's dispute to be valid, the Hearing Officer shall be empowered to recommend an appropriate adjustment to the amount of the Debt, including that the Debt is not owed to the City.

Section 2. Administration Rules.

The Mayor or his designee is authorized, but not required, to promulgate written rules and/or policies for the administration of this Ordinance.

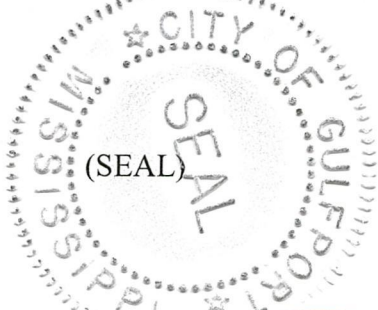
Section 3. Nothing in this Ordinance shall be construed or interpreted as creating a cause of action against the City of Gulfport, Mississippi.

Section 4. This ordinance shall be in full force and effect thirty (30) days after the date of passage, except where this ordinance passes by a unanimous vote, in which case, for the immediate and temporary preservation of the public peace, health or safety or for other good cause (in this case, the prompt recovery of debts owed to the City), it shall become effective immediately. It shall be published according to law and shall be spread on the minutes of the Gulfport City Council.

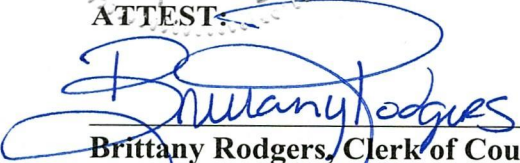
The above and foregoing Resolution, after having been first reduced to writing and read by the Clerk, was introduced by Councilmember Pucheu, seconded by Councilmember Roland, and was adopted by the following roll call vote:

<u>YEAS:</u>	<u>NAYS:</u>	<u>ABSENT:</u>
Casey	None	None
Roland		
Holmes-Hines		
Walker		
Sharp		
Flowers		
Pucheu		


WHEREUPON the President declared the motion carried and the Resolution adopted, this the 19th day of November, 2019.



ATTEST:

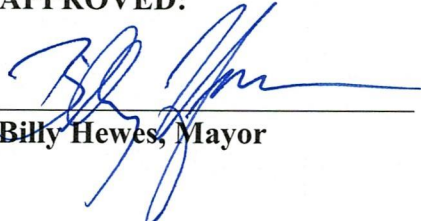

Brittany Rodgers, Clerk of Council

ADOPTED:


F.B. "Rusty" Walker, IV, President

The above and foregoing Resolution having been submitted to and approved by the Mayor, this the 20th day of November, 2019.

APPROVED:


Billy Hewes, Mayor